

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

AMERICAN INSTITUTE OF PHYSICS, AND  
BLACKWELL PUBLISHING, LTD. §

Plaintiffs, §

v. §

WINSTEAD PC AND JOHN DOES NOS. 1-10, §

Defendants, §

and §

THE UNITED STATES PATENT AND  
TRADEMARK OFFICE, §

Intervening Defendant and Counterclaim  
Plaintiff. §

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED

SEP 30 2013

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CLERK, U.S. DISTRICT COURT  
By Deputy

CIVIL ACTION NO.  
3:12-CV-1230-M

ORDER

Before the Court is the Motion to Dismiss Plaintiffs' Amended Complaint, filed by Defendants Winstead PC and John Does Nos. 1-10 (collectively "Winstead" or "Defendants") [Docket Entry #56]. John Does Nos. 1-10 are partners, associates or other employees of Winstead, whose identities are not known to Plaintiffs. Pursuant to Federal Rule of Civil Procedure 12(d), the Court converted the Motion to Dismiss to a Motion for Summary Judgment during the hearing held on May 22, 2013. After considering the parties' arguments, the factual record developed through limited discovery, and applicable law, the Court **GRANTS** Defendants' Motion for Summary Judgment.

The USPTO's Motion for Partial Summary Judgment [Docket Entry #60] is **DENIED as moot**. Plaintiffs' Motion to Dismiss the Counterclaim of the Intervening Defendant [Docket Entry #75] is **DENIED as moot**.

A Memorandum Opinion and Judgment will issue shortly.

**SO ORDERED.**

September 30, 2013.



BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF TEXAS